

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

11-cr-34-wmc-1

JOHN J. MILLER,

Defendant.

A hearing on the probation office's petition for judicial review of John J. Miller's supervised release was held on November 9, 2012, before U. S. District Judge William M. Conley. The government appeared by Assistant U. S. Attorney Stephen A. Ingraham. Defendant was present in person and by Supervisory Associate Federal Defender Michael W. Lieberman. Also present was U. S. Probation Officer Traci L. Jacobs.

From the record, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on September 7, 2011, following his conviction for threaten to kidnap and murder a federal official, in violation of 18 U.S.C. § 115(a)(1)(B). This offense is a Class C felony. Defendant was committed to the custody of the Bureau of Prisons to serve a term of imprisonment of 12 months with a 36-month term of supervised release to follow.

Defendant began his term of supervised release on March 21, 2012.

Defendant violated the statutory condition requiring him to refrain from committing another federal, state, or local crime when on August 6, 2012, he engaged in a verbal altercation with another Fahrman Center residential reentry center resident escalating to defendant shoving a table at the resident. Defendant also rushed at Fahrman Center Director Dick Williams and shouted in his face. Defendant was subsequently arrested on a charge of disorderly conduct. He was terminated as an unsuccessful completion of his Fahrman Center placement. Subsequently, it was learned that Mr. Miller stopped taking his psychotropic medications in May 2012. He failed to disclose this to his probation officer or staff at Fahrman Center.

On August 15, 2012, Mr. Miller had an emergency appendectomy. Mr. Miller was very close to dying due to an abdominal infection and complications from surgery. He spent eight weeks in the hospital. He was released on October 11, 2012.

Mr. Miller is currently residing with his brother in La Crosse, Wisconsin, and receiving continuing care and followup therapy through Gundersen Lutheran Health System. Mr. Miller recently went through a series of psychiatric and neurological tests which suggest he is recovering physically, although he continues to suffer from a non-specific delusional disorder that "cloud[s] his judgment and impulses" and contributes to an inability to control his anger, including while driving. As a result, his psychologist concludes in a November 7, 2012 note that it is reasonable to compel Miller's ongoing psychiatric care and stabilization by mandating "he receive ongoing psychiatric care and court-ordered medication, but also psychotherapeutic involvement to assist him in modifying his delusional thinking and developing his moods and impulses."

Defendant's conduct falls into the category of a Grade C violation. Section 7B1.3(a)(2) of the advisory guidelines provides that the court may revoke supervised release, extend the term of supervised release, or modify the conditions of supervision upon a finding of a Grade C violation.

CONCLUSIONS

Although defendant's actions demonstrate a disregard for the conditions of his supervised release and a continuing risk to the community, an alternative to revocation is available at this time.

ORDER

IT IS ORDERED that defendant is continued on supervised release with all conditions previously imposed, including that he (1) participate in ongoing prescribed psychotherapy; and (2) take all prescribed medications. In addition, the court adds a ninth condition that he not drive without express advance permission of his probation officer.

Entered this 9th day of November 2012.

BY THE COURT:
/s/
WILLIAM M. CONLEY
U.S. District Judge